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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,290	08/03/2001	David M. Goldenberg	IMMU:015US	5316

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EXAMINER	
HARRIS, ALANA M	

ART UNIT	PAPER NUMBER
1643	

NOTIFICATION DATE	DELIVERY MODE
02/19/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail@rkmlegalgroup.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/921,290	GOLDENBERG, DAVID M.	
	Examiner	Art Unit	
	Alana M. Harris, Ph.D.	1643	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *24 December 2009*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *5-9,14-18,25-29,32-37,41-44,46,48,52,55,57 and 59-61*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Alana M. Harris, Ph.D./
Primary Examiner, Art Unit 1643

Continuation of 5. Applicant's reply has overcome the following rejection(s): Claims 5-9, 14-18, 25-29, 32-37, 41-44, 46, 48, 52, 55, 57 and 59-63 under 35 U.S.C. 103(a) as being unpatentable over Brozek, C. M. et al. (J Clin Lab Immunol. 31(3): 105-9, March 1990), and further in view of Kvalheim (Journal of the National Cancer Institute 80(16): 1322-1325, October 19, 1988), Leskovar/ U.S. Patent Application Publication number 2002/0094542 A1 (effective filing date May 3, 1999), Rybak et al. (Proc. Nat. Acad. Sci. USA 89: 3165-3169, April 1992), Hanna et al./ U.S. Patent Application Publication number 2001/0018041 A1 (filed April 16, 2001) and Halliwell (J. Am. Vet. Med. Assoc. 181(10): 1088-96, Nov. 15, 1982). Claims 1-3, 10, 53, 54, 56, 58, 62 and 63 have been cancelled.

Continuation of 11. does NOT place the application in condition for allowance because: current claims 5-9, 14-18, 25-29, 32-37, 41-44, 46, 48, 52, 55, 57 and 59-61 can be rejected under 35 U.S.C. 103(a) as being unpatentable over Kvalheim (Journal of the National Cancer Institute 80(16): 1322-1325, October 19, 1988) and in further view of Leskovar/ U.S. Patent Application Publication number 2002/0094542 A1 (effective filing date May 3, 1999), Rybak et al. (Proc. Nat. Acad. Sci. USA 89: 3165-3169, April 1992) and Hanna et al./ U.S. Patent Application Publication number 2001/0018041 A1 (filed April 16, 2001). Kvalheim teaches implementing an anti-HLA-DR antibody in treatment with patients with non-T-cell acute lymphocytic leukemia, non-Hodgkin's lymphoma and some acute cases of acute myelogenous leukemia, see abstract. Kvalheim does not teach the said treatment being administered to a dog or cat, wherein the therapeutic composition further comprises a cytokine, drug or toxin and the antibody component comprises a hapten with an attached therapeutic agent. However, Leskovar teaches the claimed method, wherein a therapeutic composition comprising conjugates composed of antibodies, cytotoxins and cytokines capable of binding more than one antigen for the treatment of cancer, see page 3, sections 0032 and 0046; and page 14, section 0191. The therapeutic agents can be conjugated with haptenic groups, see page 12, section 0165; page 16, section 0213; and page 18, section 0243. Rybak teaches the use of chimeric antibodies linked to toxins such as RNase to target tumor cells, see page 3165, abstract and introduction. Hanna teaches combination therapies and method of treating B-cell lymphomas and leukemias in domestic animals, see column 0082, page 7. It would have been prima facie obvious to one of ordinary skill in the art at the time the claimed invention was made to utilize the different combinations of the therapeutic compositions for treatment of B-cell lymphomas and leukemias in domestic animals. It would have been prima facie obvious to add to the composition a RNase toxin because Brozek teaches that anti-MHC class II antibodies are useful in the treatment of autoimmune diseases and Hannna teaches a combination of antibodies for effective treatment and the cytotoxic potential of the RNase toxin is increased and functional experiments have proven tumor growth inhibitory activity. One of ordinary skill in the art would have been motivated to manufacture such a medicament in order to effectively treat companion animals/domestic animals because all publications set forth treatment of B cell malignancies targeting the cancer antigens, see all documents in their entireties, particularly Hanna. Contrary to Applicant's assertion Hanna teaches combination therapies and method of treating B-cell lymphomas and leukemias in domestic animals including dogs and cats.

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